

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

SAMARIA HARRELL,

Plaintiff,

v.

DELANOR KEMPER & ASSOCIATES,

Defendant.

PLAINTIFF'S VERIFIED
COMPLAINT AND
DEMAND FOR JURY
TRIAL

SAMARIA HARRELL ("Plaintiff"), through her attorneys, KROHN & MOSS, LTD., alleges the following against DELANOR KEMPER & ASSOCIATES, ("Defendant"):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA).

2. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."

4. Defendant conducts business in the state of Georgia, and therefore, personal jurisdiction is established.

5. Venue is proper pursuant to 28 U.S.C. 1391(b)(1).

PARTIES

6. Plaintiff is a natural person residing in the Rockhill, South Carolina.

7. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3), and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5).

8. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6), and sought to collect a consumer debt from Plaintiff.

9. Defendant's main office is located in Atlanta, Fulton County, Georgia.

10. Defendant, in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

11. Defendant contacts Plaintiff seeking and demanding payment for an alleged debt.

12. Defendant's messages request return phone calls to its phone number 678-500-8463. (See Exhibit A)

13. Defendant threatens Plaintiff with legal action unless arrangements are made to pay the alleged debt. (See Exhibit A)

14. Defendant threatens Plaintiff with Criminal Prosecution unless arrangements are made to pay the alleged debt. (See Exhibit A)

15. Defendant stated that a "warrant" was issued against Plaintiff. (See Exhibit A)

16. Defendant claimed to be an "investigator" and further claimed that Plaintiff's name was on a "list" and "calendar" for the Cuyahoga County Court. (See Exhibit A)

17. Defendant stated that Plaintiff needed to call and arrange payment in order to get her name off of that "list" and that "calendar". (See Exhibit A)

18. Defendant stated “this is a possible felony for your city and state” to Plaintiff.

(See Exhibit A)

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

19. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.
- b. Defendant violated §1692e of the FDCPA by using false, deceptive, or misleading representations or means in connection with the collection of a debt.
- c. Defendant violated §1692e(1) of the FDCPA by claiming to be an “investigator” thereby implying that Defendant was working for a State Court in an attempt to get Plaintiff’s name off of a Court “list” and calendar”
- d. Defendant violated §1692e(4) of the FDCPA by representing that a felony had been committed and that a warrant was issued against Plaintiff.
- e. Defendant violated §1692e(5) of the FDCPA by threatening to take criminal legal action against Plaintiff even though Defendant has no legal right and/or no intention to take such action.
- f. Defendant violated §1692e(7) of the FDCPA by implying that Plaintiff committed a crime or other conduct in order to disgrace Plaintiff.
- g. Defendant violated §1692e(10) of the FDCPA using false representations and/or deceptive means in an attempt to collect a debt because Defendant’s collectors referred to themselves as “investigator(s)”.

- h. Defendant violated §1692e(10) of the FDCPA using false representations and/or deceptive means in an attempt to collect a debt because Defendant stated and/or implied a criminal action was pending.
- i. Defendant violated §1692e(10) of the FDCPA using false representations and/or deceptive means in an attempt to collect a debt because Defendant's collector stated and/or implied a warrant was out for Plaintiff's arrest.
- j. Defendant violated §1692e(11) of the FDCPA by failing to disclose in subsequent communications that the communication was from a debt collector.

WHEREFORE, Plaintiff, SAMARIA HARRELL, respectfully requests judgment be entered against Defendant, DELANOR KEMPER & ASSOCIATES, for the following:

- 20. Statutory damages pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,
- 21. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k
- 22. Any other relief that this Honorable Court deems appropriate.

DATED: July 30, 2010

RESPECTFULLY SUBMITTED,

By: _____

Alex Simanovsky, Esq.
Attorney for Plaintiff
Alex Simanovsky & Associates, LLC
2300 Henderson Mill Road, Suite 300
Atlanta, Georgia 30345

Of Counsel
Krohn & Moss, Ltd.
10474 Santa Monica Blvd., Suite 401
Los Angeles, CA 90401

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, SAMARIA HARRELL, demands a jury trial in this case.

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF SOUTH CAROLINA)

Plaintiff, SAMARIA HARRELL, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, SAMARIA HARRELL, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

7-22-2010

Date


SAMARIA HARRELL

EXHIBIT A

_____ we have all your information here. This is regards to a legal warrant. Being a criminal claim, it would be in your best interest to return my phone call promptly. I assure you I am not the one to dodge. I am not the one who has this claim pending for you there in Maple Heights, Ohio for Clayton County court. Return my phone call promptly, 6785008463. I need to hear from you today, Samaria Harell.

Samaria Harell, I need to speak with you as soon as possible. This is in regard to a legal warrant being a possible criminal complaint. My name is _____ calling in regards to claim case number 710031882. _____ Samaria Harell, they are in Maple heights, Ohio proceedings for that city and state. We are also trying to get her name off this list. It is not a good place to be in. Return our phone call promptly if you can help us to reach her, 6785008463. Thank you.

Samaria Harell, I need you to call me immediately. This is investigator Shrieda calling in reference to your claim case number 710031882. You were supposed to call me back to set up arrangements regarding your client. You said you have to go over something to make sure that you have not paid this off yet. I really need to speak with you immediately. I cannot and will not continue to hold this for you. Please understand the seriousness of this matter. We need to try to get your name off this list and this calendar. Claim was pending for Maple Heights, Ohio for Cuyahoga County court. Return my phone call as soon as you get this message, 6785008463. I cannot and will not continue to hold this for you without some type of feasible arrangement to present to my client. I need to speak with you today. I understand this is a possible felony for your city and state, 6785008463, Samaria Harell.